

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

60423

FILE: B-184876

DATE: January 26, 1976

MATTER OF: L. W. Clark

DIGEST:

099305
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99199

Protest by apparent low bidder under total small business set-aside regarding contracting officer's method of evaluating bid is not for consideration by GAO since SBA Size Appeals Board affirmed regional SBA decision that apparent low bidder is other than small business and therefore ineligible for award and decision by SBA regarding size status is conclusive. 15 U.S.C. § 637(b)(6).

This matter concerns a protest filed by counsel for L. W. Clark under invitation for bids (IFB) F41606-75-09059, issued by Randolph Air Force Base, Texas. The subject IFB, a total small business set-aside, was issued on June 6, 1975, for refuse collection and disposal for Randolph Air Force Base for the period October 1, 1975, through June 30, 1976, including options to extend annually through 1978. No award has been made.

The record discloses that four bids were received and were evaluated as follows:

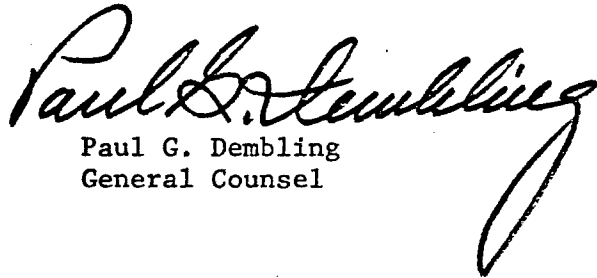
	<u>Basic</u>	<u>Alternate</u>
L. W. Clark	\$454,860	\$804,984
Gutierrez Disposal, Inc.	490,050	452,529
Moore Services, Inc.	497,862	477,469
Midland Maintenance, Inc.	520,879	500,499

In view of the disparity between Clark's alternate bid and the other bids, the contracting officer had reason to believe that a mistake may have been made and therefore requested Clark to verify its bid. Clark verified its bid but protested the contracting officer's evaluation of its alternate bid contending that the contracting officer's evaluation of its bid was contrary to the IFB provisions. This question need not be decided by our Office in view of the following.

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The San Antonio Office of the Small Business Administration (SBA), in a letter dated September 24, 1975, found Clark to be other than a small business for the purpose of this procurement. Counsel for Clark subsequently filed an appeal with the SBA Size Appeals Board. On November 24, 1975, the Board denied Clark's appeal. Under 15 U.S.C. § 637(b)(6) (1970), a decision of the SBA regarding the size status of a concern is conclusive and may not be ignored by our Office. See Fort Vancouver Plywood Company, B-179737, May 13, 1974, 74-1 CPD 243. Under the circumstances, Clark is not eligible for an award under the invitation and its protest is rendered moot.

Accordingly, no further action on Clark's protest will be taken by our Office.


Paul G. Dembling
General Counsel